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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,290	02/13/2004	Hubert Beck	4452-592	7424

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COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK, NY 10176

EXAMINER

NGUYEN, XUAN LAN T

ART UNIT	PAPER NUMBER
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3683

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/779,290

Applicant(s)

BECK, HUBERT

Examiner

Lan Nguyen

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 6, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Funkhouser (USP 2,458,157) in view of Tanigawa et al. (USP 6,322,058).

Re: claim 1, Funkhouser shows a piston-cylinder unit, as in the present invention, comprising a cylinder 20, a piston rod 50 having section projecting out of said cylinder as shown, said section having an end arranged distal from said cylinder, said end being received in a mounting bearing 34 for connecting the piston-cylinder unit to a support not shown but mentioned as two relative moveable members in column 1, line 8, and a bellows 41 covering said section of said piston rod for protecting said section of said piston rod against at least one of dirt and damage, wherein an unimpeded flow connection 36, 42 is provided in the end of said piston rod, said flow connection being permanently open and communicating freely with an interior space defined in said bellows and freely with the atmosphere such that said flow connection allows a free flow of air between the atmosphere and said interior space when said interior space in said bellows undergoes a change in volume in response to a relative movement

Art Unit: 3683

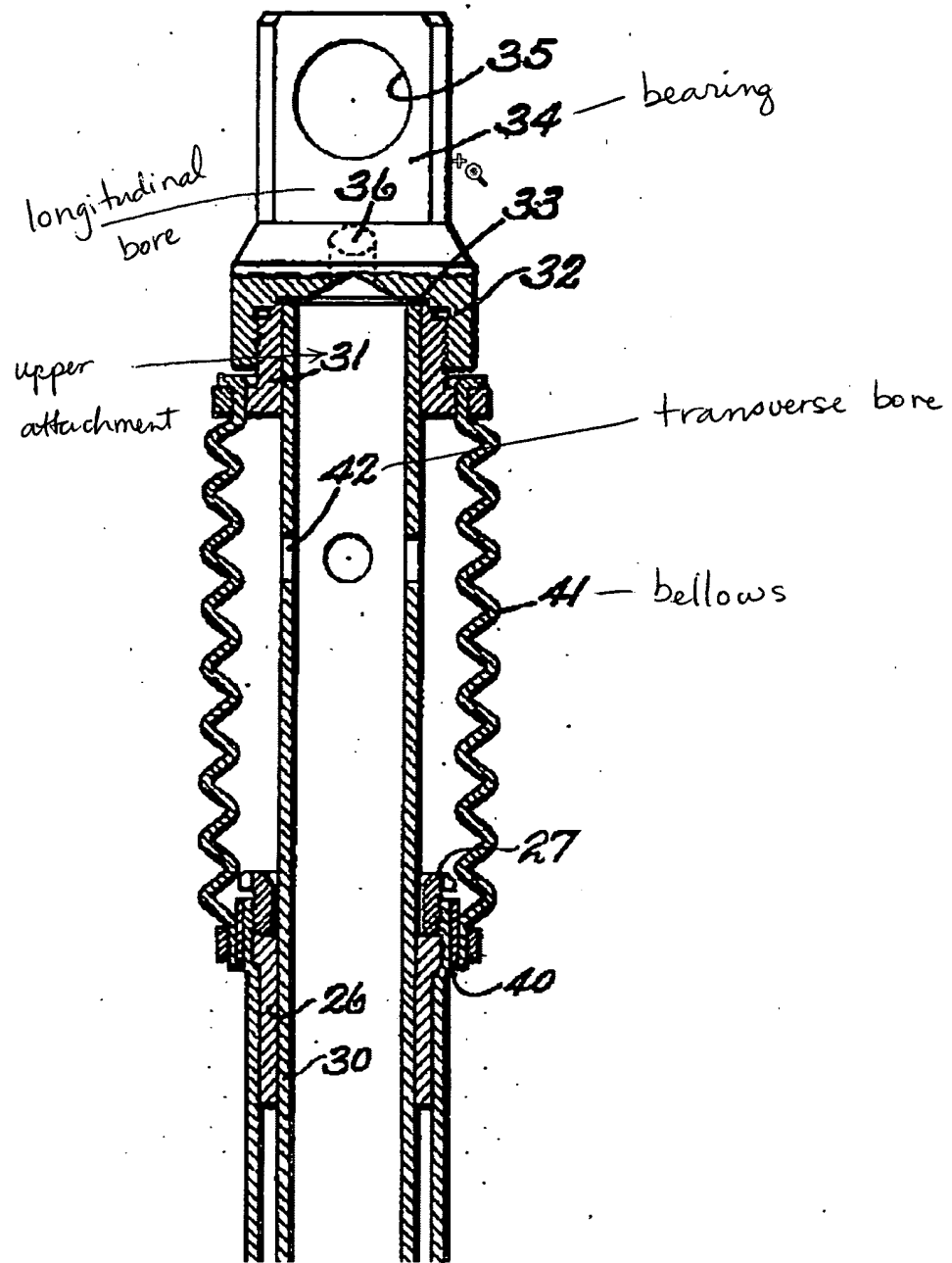
between the bearing and the cylinder, as stated in column 2, lines 10-12 and 23-28.

Funkhouser lacks the through hole in the bearing mounting and the connection between the piston rod end, the flow connection and the bearing mounting. Tanigawa teaches an alternative mounting in figure 4 wherein the mounting bearing 33 comprises an elastomeric damper 35 and a through hole. Piston rod 11 is received in the through hole and projecting out of a distal side of the mounting bearing wherein a flow connection 26 passing through the mounting bearing as shown. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Funkhouser's unit to comprise a mounting bearing as taught by Tanigawa in order to further providing dampening capability to the unit by the elastomeric damper in the mounting bearing.

Re: claim 2, Funkhouser shows longitudinal bore 36 and transverse bore 42.

Re: claim 3, Tanigawa shows the mounting to be a screw joint with end 11D and nut 23 threaded engaged.

Re: claims 6, 7 and 9, Funkhouser shows the cylinder piston unit as claimed.



Art Unit: 3683

3. Claims 4, 5, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Funkhouser (USP 2,458,157) in view of Tanigawa et al. (USP 6,322,058) and further in view of Wode et al. (USP 5,267,725).

Re: claims 4, 5 and 11, Funkhouser's unit, as rejected above, lack the bead and groove as claimed. Wode teaches the concept of a groove and bead 3 to engage the groove in the figure. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Funkhouser's unit to employ the bead and groove attachment arrangement as taught by Wode to provide a more secure connection as taught by Wode. Furthermore, it is well settled that making one piece of the upper attachment part and the bearing to be old and well known knowledge.

Re: claim 12, Wode further teaches a collar 7, 8 surrounding said bead and which extends radially from said bead, portion 7, said collar having a radially outer edge portion 8 that is loaded axially against the cylinder of Funkhouser.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Funkhouser (USP 2,458,157) in view of Tanigawa et al. (USP 6,322,058) and further in view of OE 324144.

Re: claim 10, Funkhouser's unit, as rejected above, lacks a weep hole. Document OE 324144 teaches a bellows 1 with weep holes 11. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Funkhouser's unit to comprise weep holes as taught by document 324144 in order to quickly vent the air inside the bellows to accommodate a quick collapse of the bellows should the strut compresses too quickly.

Response to Arguments

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.
6. It is noted that Applicant did not argue the well known knowledge statement in the rejection of claim 5 wherein it stated that making one piece of the upper attachment part and the bearing mounting to be old and well known knowledge. According, making one piece of the upper attachment part and the bearing mounting is considered to be admitted prior art, see MPEP 2144.03.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gold et al. and Buma are cited for other McPherson struts with the mounting bearings similar to Applicant's. Warmuth II et al. (figure 1) and Pees (figure 5) are cited for bellows with collars.
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

Art Unit: 3683

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is (571) 272-7121. The examiner can normally be reached on Monday through Friday, 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on (571) 272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Xuan Lan Nguyen/ 3-07-07
Primary Examiner
Art Unit 3683